

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

CASE NO. 1:04-CR-02

v.

HON. ROBERT HOLMES BELL

JAMAR VAN STUART,

Defendant.

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**MEMORANDUM OPINION AND ORDER**

This matter is before the Court on defendant's Motion for Modification or Reduction of Sentence Pursuant to 18 U.S.C. §3582(c)(2) (docket #180). Based on a review of defendant's motion, the Sentence Modification Report, submission by defense counsel, and the original criminal file, the Court has determined that the motion should be denied for the following reason(s):

Defendant was sentenced on November 2, 2004 to 324 months custody and 5 years supervised release following his conviction for Conspiracy to Possess with Intent to Distribute and to Distribute 50 Grams or More of Cocaine Base and 500 Grams or More of Powder Cocaine contrary to 21 U.S.C. §§846, 841(a)(1), 841(b)(1)(A)(iii) and 841(b)(1)(B)(ii). At the time of sentencing, the Court granted a motion by the government pursuant to USSG. §5K1.1 and reduced the defendant's guideline offense two levels. On

August 14, 2007, the Court reduced defendant's term of custody to 180 months following a *Booker* remand. On November 10, 2010, due to the retroactive application of Amendments 706 and 711 to the United States Sentencing Guidelines, the defendant's term of custody was reduced to 160 months. The Sentence Modification Report prepared by the United States Probation Office calculated defendant's guideline range at that time to be 324 to 405 months based on a total offense level of 35 and a criminal history category V (262 to 327 months taking into consideration the two level §5K1.1 departure).

The Sentence Modification Report prepared as a result of defendant's Amendment 750 motion states that defendant's total offense level, criminal history category, and guideline range remain unchanged from the last sentence modification.

Since Amendment 750 does not result in a lower guideline range, defendant is not eligible for a sentence reduction under 18 U.S.C. §3582(c)(2) and USSG §1B1.10(a)(2)(B).

ACCORDINGLY, defendant's motion (docket #180) is **DENIED**.

Date: July 17, 2012

/s/ Robert Holmes Bell  
ROBERT HOLMES BELL  
UNITED STATES DISTRICT JUDGE